

REMARKS

Claims 18-36 are currently pending, with claims 18, 31, and 33 being independent.

Claims 18-36 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,710,887 to Chelliah et al. ("Chelliah") in view of U.S. Patent No. 5,970,469 to Scroggie et al. ("Scroggie"). In support of this rejection, the Examiner provided the exact same reasoning that was provided in the previous office action mailed on November 4, 2003. Moreover, the Examiner made the office action final. Applicants respectfully traverse this rejection, request removal of the finality of the office action, and reconsideration and allowance of all the claims. Furthermore, if, upon reconsideration of the claims, a subsequent office action is mailed based on new grounds of rejection, Applicants respectfully request that the action be made a non-final action since the rejection relied upon as a basis for each rejection of this Request for Continued Examination (RCE) will have been found to be deficient. A detailed explanation of these requests follows.

The text and reasons given for the 103(a) rejection as applied to claims 18-36 are exactly the same as the text and reasons provided in the previous non-final office action, which was the first action following a RCE. The full text of the rejection of all of the pending claims from both office actions is provided here for convenience:

"Chelliah discloses e-commerce (column 1, line 7), collecting demographic information about consumers (column 1, lines 33-34), incentives (column 4, line 16), maintaining customer information within a database (column 4, line 50). Chelliah does not specifically disclose registration, but Scroggie, in column 1, line 50 does. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Chelliah with Scroggie because this system provides a means for targeting customers with focused incentive-based promotions that increase profitability and customer satisfaction." See non-final Office Action mailed November 4, 2003, p. 8 and Final Office Action mailed July 1, 2004, p. 5.

Applicants have paid all the appropriate government fees to have their claims, including every limitation of those claims, examined in full. Applicants are entitled to a clear explanation of the pertinence of each reference with respect to each rejected claim. See 37 CFR 1.104 (c)(2)

("The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified.")

After receiving the previous non-final Office Action, Applicants' representatives¹ conducted an in-person interview with Examiner Reagan on March 10, 2004, in an attempt to obtain a clear explanation of the rejection and how the Examiner was applying the Chelliah and Scroggie references to each of the claim limitations. During the in-person interview, as noted on the Interview Summary sheet (copy attached), the Examiner reviewed independent claim 18 and dependent claim 28 and both of the references and concluded that the "[c]laims appear to overcome the prior art of reference." See Interview Summary dated March 10, 2004. Subsequent to the interview, Applicants' representatives promptly filed a response to the non-final office action on March 26, 2004 without amending the claims.²

Given the Examiner's verbal acknowledgement of distinctions between the claims and references asserted, and the written acknowledgement of perceived distinctions made by the Examiner, Applicants anticipated removal of the pending rejection or at least a more detailed explanation of how the references meet each of the claimed limitations and why the Examiner reversed position. Instead, Applicants received the July 1, 2004 final Office Action which merely maintained the exact same 103(a) rejection with the same two references that the Examiner had previously asserted and thereafter renounced verbally during the interview and in writing thereafter. No additional explanation was provided to explain why the Examiner reversed position. The Examiner states (in the final Office Action) that a further clarification of the references is being provided:

"As a means of providing further clarification as to what is taught by the references used in the first Office action, Examiner has expanded the teachings for comprehensibility while maintaining the same grounds of rejection of the claims, except as noted in the above section labeled "Status of Claims. This information is intended to assist in illuminating the teachings of the references while providing evidence that establishes further support for the rejection of the claims." See Final Office Action mailed July 1, 2004, p. 3.

¹ The assignee of the application recently transferred the application to the current Attorney's of Record in February 2004.

² Claim 36 was amended to correct a typographical error in that two claims were mistakenly numbered claim 35.

However, Applicants are having a difficult time finding any further clarification. Rather, the Examiner appears to have simply cut and pasted the same three-sentence paragraph rejection of all 19 claims from the non-final office action. In fact, only the following sentences distinguish the July 1 Office Action from its predecessor office action:

"The examiner respectfully disagrees and points to the rejections below, wherein The [sic] combination of Chelliah/Scroggie discloses collecting demographic data during an electronic transaction, essentially disclosing collecting consumer data, [and] recording consumer data. It is obvious to one of ordinary skill in the art to collect data on purchasers of good and services because this provides insight to the habits of consumers, thereby providing a method and technique for more accurately targeting consumers with specific advertisements and offers." See Final Office Action mailed July 1, 2004, pp. 3-4.

Both Office Actions provide absolutely no clarification with respect to each of the 19 rejected claims, and moreover, do not even begin to point out and provide clarification as to how the cited references allegedly render each and every feature of the claims obvious.

Applicant's representatives again attempted to obtain clarification of the references and the application of the references to the claims in a telephone interview with Examiner Reagan on July 13, 2004. During the telephone interview, the Examiner did not recall the previous in-person interview. Moreover, the Examiner again failed to provide any additional clarification of the references as applied to the pending claims during the interview.

Without further clarification, Applicants maintain that the Examiner has failed to meet the burden of establishing a prima facie case of obviousness, and thus has failed to provide sufficient information to advance prosecution of the case. In an attempt to nevertheless advance matters, Applicants provide the following arguments to again point out that the cited references fail to describe or suggest one or more of the recited claim features, which is believed to be consistent with the conclusions reached by the Examiner in March 2004, prior to his apparent reversal in position. As it will be apparent from the arguments below, Applicants maintain that this current office action is improper and request that the finality of the Office Action be removed.

Claim 18

Claim 18 recites a method of collecting consumer data that includes, among other features, offering one or more incentives for prospective consumers to register with a provider of services, receiving a request at the provider of services from a consumer to register with the provider of services to receive at least one of the offered incentives, and registering the consumer with the provider of services. A unique identifier is assigned to the registered consumer or the computer of the registered consumer to record the network activity of the registered consumer using the unique identifier at the provider of services.

Communications from the registered consumer's computer are directed to a server of the provider of services, where the data request communications are received, recorded using the unique identifier, and communicated by the server at the provider of services to a data server capable of fulfilling the data request. In response to the data requests from the registered consumer's computer, data designated for the consumer's computer is received at the provider of services, recorded using the unique identifier, and communicated by the server at the provider of services to the consumer's computer.

The received data requests and the received data associated with more than one unique identifier is aggregated based on the recorded network activity of the registered consumers associated with the unique identifiers. A database is generated by the provider of services of individual and aggregated consumer network activity. The individual consumer network activity includes the received data requests and the received data that is recorded as being associated with the unique identifier. The aggregated consumer network activity includes the received data requests and the received data that is aggregated as being associated with the more than one unique identifiers.

Thus, as recited in claim 18, the provider of services performs multiple different steps including receiving requests from consumers to register for incentives, registering the consumer with the provider of services, recording network activity of the registered consumers using the assigned unique identifiers, receiving data requests, recording the data requests associated with the unique identifiers and communicating the data request to data server, and receiving the data

fulfilling the data requests, recording that data associated with the unique identifiers, and communicating the data to the registered consumer. Moreover, the provider of services aggregates the recorded network activity, which includes both the data requests and the data that fulfills those request, on each of an individual consumer basis as associated with the unique identifier and an aggregate consumer basis as associated with the more than one unique identifiers.

Applicants respectfully request reconsideration and withdrawal of the rejection of claim 18 and its dependent claims because Chelliah and Scroggie, either alone or in combination, fail to describe or suggest one or more of these features.

Chelliah describes an electronic mall that presents a number of electronic storefronts that a user may interact with to purchase items. See Chelliah, col. 6, lines 26-31 and lines 37-40. When the user selects an electronic storefront, different commerce subsystems are invoked. The electronic mall enables the different electronic storefronts to customize its storefront by selecting combinations of common subsystems available to all of the electronic storefronts to suit its particular operating style. See Chelliah, col. 6, line 66 to col. 7, line 6. These different subsystems include an incentives subsystem, an observations subsystem, an order fulfillment subsystem, a participant subsystem, a payment handler, a pricing subsystem, a product database, a promotions subsystem, a sales representative subsystem, a redemption registry, a security subsystem, a shipping subsystem, and a tax subsystem. See Chelliah, col. 7, lines 7-16. Each of the subsystems is a self-contained, independent module connected to the electronic mall as either an internal subsystem or an external subsystem. See Chelliah, col. 8, lines 18-20.

The incentives subsystem provides a system that the electronic storefront may use to offer in-store couponless price discounts (See Chelliah, col. 20, lines 43-67), coupon-based price discounts (See Chelliah, col. 23, lines 4-12), in-store frequent buyer incentives (See Chelliah, col. 27, lines 60-67), coupon-based frequent buyer points (See Chelliah, col. 28, lines 1-10), and quantity discount incentives (See Chelliah, col. 28, lines 11-17).

The observations subsystem provides a system for recording events representing observable data that results from customer interactions. The observation subsystem can receive

and maintain customer interaction information relating to at least one customer's communications over the computer driven network. The information can be displayed to a supplier of the goods. See Chelliah, col. 4, line 60 to col. 5, line 3 and col. 7, lines 40-45.

Chelliah uses a program object that it calls a "collector" to communicate events to one or more other program objects called "event recipients" that have registered with the collector. The event recipients can either record the event for subsequent historical analysis using a "logger" event recipient, or present it for real time analysis using an "active monitor" event recipient. Different event monitors are used to analyze certain types of events, such as sales volume. To receive information from the collector, the event recipient must register with the collector. Event recipients may be registered with more than one collector, and a collector may register more than one event recipient. "Each Collector communicates events only to the Event Recipients that have registered with it." See Chelliah, col. 25, lines 63-64. Events that are transmitted by a collector may include events tracking general system navigation events, shopping events, purchasing events, and user-defined events. For example, a Start_Session event defines when a customer begins a particular commerce session. This event may include data such as a session_id, which is a unique identifier identifying the session, a session_connection, which identifies how the customer is connected, and a date_time, which is a date/time stamp. See Chelliah, col. 25, line 16 to col. 27, line 21.

Chelliah defines a program object as "an integrated collection of data and functions that describe an entity or business function, and the operations that can be performed on or by the entity or business function. Program objects can also access databases, and serve as interfaces to no-object-oriented subsystems. The program objects, may be, for example objects in compliance with the Object Management Group's (OMG's) Common Object Request Broker Architecture (COBRA)." See Chelliah, col. 9, lines 30-38.

Thus, with respect to the observations subsystem, Chelliah describes how the collector program objects communicate events to event recipient program object, but Chelliah does not describe how the collector program objects actually collect the event information, such as purchases, or how the event information is associated with one or more of the customers. As

such, Chelliah does not anticipate claim 18 and does not render claim 18 obvious because Chelliah fails to describe one or more of the recited claim features.

More specifically, for example, Chelliah does not offer one or more incentives for prospective consumers to register with a provider of services, receive a request at the provider of services from a consumer to register to receive at least one of the offered incentives, and registering the consumer with the provider of services. Although Chelliah provides coupon and couponless price discounts to shoppers at the electronic mall, Chelliah does not offer incentives to entice consumers to register with the provider of services for the purpose of receiving one of the offered incentives. In fact, the Office Action acknowledges that "Chelliah does not specifically disclose registration." See Final Office Action at p. 8. Thus, since Chelliah does not describe or suggest registration, Chelliah necessarily also fails to describe or suggest offering incentives for the purpose of registering a consumer, receiving a request to register to receive one of the offered incentives, and registering the consumer, each of which is recited in claim 18.

Chelliah also fails to describe or suggest assigning a unique identifier to at least one of the registered consumer and a computer of the registered consumer to record network activity of the registered consumer using the unique identifier at the provider of services. Since Chelliah does not describe registration, as acknowledged in the Office Action, Chelliah cannot assign a unique identifier to the registered consumer or the computer of the registered consumer to record the registered consumer's network activity using the unique identifier. Moreover, Chelliah does not even describe or suggest assigning a unique identifier to any of the shoppers at the electronic mall. Instead, Chelliah describes a session_id that is used to identify a particular shopping session. A session_id that identifies a particular session is different than a unique identifier assigned to a registered consumer or a computer of the registered because the session_id is only valid for the period of the particular session. In contrast, the assigned unique identifier enables the network activity of the registered consumer to be recorded without regard to any particular session and across multiple sessions. Furthermore, Chelliah does not describe recording network activity of the registered consumer using the assigned unique identifier at the provider of services.

Chelliah also fails to describe or suggest that a provider of services is used to receive data requests, record the data requests as associated with the unique identifier, and communicate the data requests to a data server capable of fulfilling the data requests. The provider of services also receives the data in response to the data requests, records the received data as associated with the unique identifier, and communicates the data to the registered consumer's computer. In contrast, Chelliah describes that certain consumer events may be tracked, but does not seem to describe or suggest how the event data is tracked other than stating that Chelliah uses program objects to collect information about certain designated events, such as general navigation events, shopping events, and purchasing events that occur at a particular electronic storefront within the electronic mall. This seems to describe how event recipients register with collectors, but does not describe how the event information is collected. Chelliah does not describe the method features recited in claim 18 whereby the data requests from a registered consumer and the data that fulfill those requests are communicated through a provider of services that records the data requests and the data as associated with the unique identifier. The provider of services functions as an intermediary on the network to record the data requests and the fulfilling data, as associated with the assigned unique identifier. Chelliah simply does not describe such an intermediary that provides these functions.

Additionally, Chelliah does not describe or suggest generating a database by the provider of services of both individual network activity and aggregated consumer network activity. The individual consumer activity includes the recorded data requests and the recorded data at the provider of services that is associated with the assigned unique identifier of the consumer. The aggregated consumer network activity includes the recorded data requests and recorded data at the provider of services that is associated with multiple assigned unique identifiers. Again, because Chelliah does not assign unique identifiers to registered consumers or to the computer of the registered consumer, Chelliah cannot generate a database of individual and aggregated consumer network activity that is associated with the unique identifiers.

Scroggie does not remedy the many failures of Chelliah. With the scant detail provided in the Office Action, the Applicants' representatives surmise that the Office Action only relies on

Scroggie to describe "registration." In general, Scroggie describes distributing incentives to retail customers over a computer network for use in a physical store. A remotely located customer is logged in using identity data and geographic region data. Incentive offers are transmitted to the "registered customer" enabling the customer to select an offer and to print out the incentive. See Scroggie, col. 1, lines 44-65. The first time a customer registers, the customer's e-mail address is used to create a unique household identification, which is subsequently used to reference prior registration information and is encoded onto each coupon generated for the customer. See Scroggie, col. 9, lines 29-37 and col. 9, line 67 to col. 10, line 4.

Scroggie does not describe or suggest any recording of individual network activity and aggregated consumer network activity and, notably, is not relied upon in the Office Action for this feature. Moreover, Scroggie does not describe or suggest assigning a unique identifier to the registered consumer for the purpose of recording the network activity of the registered consumer using the unique identifier. Although Scroggie creates a unique household identification, it is not assigned and used to record the network activity of the registered consumer. Scroggie merely uses the household identification to reference prior registration information and to encode it on generated coupons that are printed out by the customer for use in a physical store.

Furthermore, Scroggie does not describe or suggest that a provider of services is used to receive data requests, record the data requests as associated with the unique identifier, and communicate the data requests to a data server capable of fulfilling the data requests. Scroggie also does not describe or suggest that the provider of services also receives the data in response to the data requests, records the received data as associated with the unique identifier, and communicates the data to the registered consumer's computer. Again, Scroggie simply has no notion of a provider of services recording the network activity of a registered consumer in this manner and, notably, is not relied upon in the Office Action for these features.

Thus, Chelliah and Scroggie, either individually or in combination, fail to render claim 18 obvious because they fail to describe or suggest one or more of the features recited in claim 18.

Furthermore, Chelliah and Scroggie fail to render claim 18 obvious because a person skilled in the art would find no motivation to combine the references. In the Office Action, the

Examiner asserts that it would have been obvious to combine Chelliah with Scroggie "because this system provides a means for targeting customers with focused incentive-based promotions that increase profitability and customer satisfaction." See Final Office Action, p. 8. This assertion is unfounded.

First, Chelliah, without modification, describes an incentives subsystem that provides a means for targeting customer with focused incentive-based promotions that are designed to increase profitability and customer satisfaction. See Chelliah, col. 6, lines 49-52. For example, some incentives that the electronic storefront may use include in-store couponless price discounts (See Chelliah, col. 20, lines 43-67), coupon-based price discounts (See Chelliah, col. 23, lines 4-12), in-store frequent buyer incentives (See Chelliah, col. 27, lines 60-67), coupon-based frequent buyer points (See Chelliah, col. 28, lines 1-10), and quantity discount incentives (See Chelliah, col. 28, lines 11-17). Accordingly, one skilled in the art would not have been motivated to modify the teachings of Chelliah to include features already provided by the system of Chelliah without modification.

Second, the system of Chelliah is directed only to electronic commerce, whereas the system of Scroggie is directed to providing incentives that a customer prints out and brings to a store for redemption. Accordingly, one skilled in the art would not have been motivated to modify the electronic commerce system of Chelliah to include a system that is designed for customers to print out coupons to redeem in a physical store, because that would dissuade potential customers from using the very electronic mall and the electronic storefronts described as fundamental to Chelliah.

Thus, because there would be no motivation by a person skilled in the art to combine Chelliah and Scroggie, the Office Action fails to establish a prima facie 103(a) rejection.

For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the 103(a) rejection of independent claim 18 and its dependent claims 19-30.

Provided below are additional reasons for removing the rejections with respect to select claims that depend from claim 18 as well as a discussion of independent claims 31 and 33 and select claims which depend from claims 31 and 33. The following is not, however, intended to

be fully inclusive of all points of distinction that exist between claims 19-36 and the asserted references. Rather, references to each claim by the Examiner would be appropriate when formulating specific bases for examination thereafter and articulating of the same in presenting a prima facie case.

Claim 19

Claim 19 depends from claim 18 and recites that the offered incentives include at least one of faster network delivery and performing data caching. There is absolutely no description or suggestion in either Chelliah or Scroggie of any type of offered incentive that includes faster network delivery or data caching.

For at least this reason and for the reasons discussed above with respect to claim 18, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 19.

Claim 23

Claim 23 depends from claim 18 and recites that recording at least part of the received data includes filtering the received data so that only data of interest is recorded. Thus, when the data fulfilling the data requests are being communicated from the data server, the data is filtered at the provider of services so that only data of interest is recorded, and the data is communicated to the registered consumer.

Applicants respectfully request reconsideration and withdrawal of the rejection because Chelliah and Scroggie, either alone or in combination, do not describe or suggest filtering received data so that only data of interest is recorded. In contrast, Chelliah describes tracking specific consumer events, but only for events that a particular supplier registers to have recorded. Thus, in Chelliah, there would be no need to filter the received data at the provider of services because Chelliah is only recording selected events without any filtering process. Furthermore, as discussed above with respect to claim 18, Chelliah does not use a provider of services through which the data requests and the data are recorded. As noted above, Scroggie does not track any

consumer network activity or aggregated consumer network activity and, notably, is not relied upon in the Office Action for these features.

For at least this reason and for the reasons discussed above with respect to claim 18, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 23.

Claim 24

Claim 24, which depends from claim 23, recites that the filtering is based on a known format of a web page in the received data. Chelliah and Scroggie, either alone or in combination, fail to describe or suggest any type of filtering, including filtering that is based on a known format of a web page in the received data.

For at least this reason and for the reasons discussed above with respect to claims 18 and 23, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 24.

Claim 25

Claim 25, which depends from claim 18, recites that the method of collecting consumer data further includes generating a log of consumer network activity by the provider of services, where the log includes consumer demographics as well as particular URLs visited by the consumer. Chelliah and Scroggie, either alone or in combination, fail to describe or suggest this feature. While Chelliah describes tracking particular events such as general system navigation events, shopping events, and purchasing events, Chelliah does not describe or suggest tracking particular URLs visited by the consumer. In fact, Chelliah's entire electronic mall is proposed as an alternative computer architecture to electronic commerce on the Internet, and thus would not track particular URLs visited by the consumer because URLs are particular to the Internet. See Chelliah, col. 2, lines 11-15 (stating "Thus, existing computer architectures for on-line electronic commerce are service provider-specific architectures that are platform-limited (the Internet) and require conformity to a fixed operating pattern using specified subsystem implementations."). Moreover, as discussed above with respect to claim 18, Chelliah doesn't record consumer

network activity at a provider of services using the assigned unique identifier. Scroggie is not relied upon for tracking any type of consumer network activity.

For at least these reasons and for the reasons discussed above with respect to claim 18, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 25.

Claim 26

Claim 26, which depends from claim 18, recites that the method of collecting consumer data further includes analyzing the database of consumer network activity to extract estimates of projected revenue of a particular entity. Chelliah and Scroggie, either alone or in combination, fail to describe or suggest this feature and simply do discuss extracting estimates of projected revenue of a particular entity. Rather, Chelliah may monitor sales volume for an electronic storefront, which is different than extracting estimates of projected revenue.

For at least these reasons and for the reasons discussed above with respect to claim 18, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 26.

Claims 28 and 29

Claim 28, which depends from claim 18, recites, among other features, negotiating by the server of the provider of services a separate secure session with the computer of the consumer, thus initiating a secure session with the computer of the consumer. The server of the provider of services also negotiate another secure session with the data server to which the data request is being communicated. The provider of services then communicates the data request to the data server and receives the requested data over the secure session negotiated with the data server. At least part of the data from the data server is recorded at the provider of services. The received data is re-addressed for delivery to the consumer's computer using the secure session between the server of the provider of services and the computer of the consumer. Thus, the server of the provider of services securely transfers data to and from the consumer's computer to the data server using two separately negotiated secure sessions, namely one session between the consumer's computer and the server of the provider of services and another session between the

server of the provider of services and the data server. The provider of services also records at least a part of the secured data that fulfills the data requests.

Applicants respectfully request reconsideration and withdrawal of this rejection because, Chelliah and Scroggie, either alone or in combination, fail to describe or suggest one or more of the features recited in claim 28. Chelliah simply does not discuss the notion of using any type of secure session. Moreover, Chelliah does not describe a provider of services that functions to negotiate two separate secure sessions and to record at least part of the secured data that is being communicated from the data server back to the consumer's computer, where the data requests and the data fulfilling the requests are communicated using separately negotiated secure sessions through the provider of services. Scroggie does not remedy these failures of Chelliah.

For at least these reasons and for the reasons discussed above with respect to claim 18, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 28 and claim 29, which depends from claim 28.

Claims 31 and 32

Independent claim 31 recites a method of recording at least part of data transmitted during a secure session of network communication that includes, among other features, negotiating by the server of the provider of services a separate secure session with the computer of the consumer, thus initiating a secure session with the computer of the consumer. The server of the provider of services also negotiate another secure session with the data server to which the data request is being communicated. The provider of services then communicates the data request to the data server and receives the requested data over the secure session negotiated with the data server. At least part of the data from the data server is recorded at the provider of services. The received data is re-addressed for delivery to the consumer's computer using the secure session between the server of the provider of services and the computer of the consumer. Thus, the server of the provider of services securely transfers data to and from the consumer's computer to the data server using two separately negotiated secure sessions, namely one session between the consumer's computer and the server of the provider of services and another session

between the server of the provider of services and the data server. The provider of services also records at least a part of the secured data that fulfills the data requests.

Applicants respectfully request reconsideration and withdrawal of this rejection because, Chelliah and Scroggie, either alone or in combination, fail to describe or suggest one or more of the features recited in claim 31. Chelliah simply does not discuss the notion of using any type of secure session. Moreover, Chelliah does not describe a provider of services that functions to negotiate two separate secure sessions and to record at least part of the secured data that is being communicated from the data server back to the consumer's computer, where the data requests and the data fulfilling the requests are communicated using separately negotiated secure sessions through the provider of services. Scroggie does not remedy these failures of Chelliah.

Furthermore, Chelliah and Scroggie fail to render claim 31 obvious because a person skilled in the art would find no motivation to combine the references for the reasons previously expressed with respect to claim 18, which are provided again below for convenience. In the Office Action, the Examiner asserts that it would have been obvious to combine Chelliah with Scroggie "because this system provides a means for targeting customers with focused incentive-based promotions that increase profitability and customer satisfaction." See Final Office Action, p. 8. This assertion is unfounded.

First, Chelliah, without modification, describes an incentives subsystem provides a means for targeting customer with focused incentive-based promotions that are designed to increase profitability and customer satisfaction. See Chelliah, col. 6, lines 49-52. For example, some incentives that the electronic storefront may use include in-store couponless price discounts (See Chelliah, col. 20, lines 43-67), coupon-based price discounts (See Chelliah, col. 23, lines 4-12), in-store frequent buyer incentives (See Chelliah, col. 27, lines 60-67), coupon-based frequent buyer points (See Chelliah, col. 28, lines 1-10), and quantity discount incentives (See Chelliah, col. 28, lines 11-17). Accordingly, one skilled in the art would not have been motivated to modify the teachings of Chelliah to include features already provided by the system of Chelliah without modification.

Second, the system of Chelliah is directed only to electronic commerce, whereas the system of Scroggie is directed to providing incentives that a customer prints out and brings to a store for redemption. Accordingly, one skilled in the art would not have been motivated to modify the electronic commerce system of Chelliah to include a system that is designed for customers to print out coupons to redeem in a physical store, because that would dissuade potential customers from using the electronic mall and the electronic storefronts described in Chelliah.

Thus, because there would be no motivation by a person skilled in the art to combine Chelliah and Scroggie, the Office Action fails to establish a prima facie 103(a) rejection.

For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 31, and its dependent claim 32.

Claims 33 and 34

Independent claim 33 recites a method of collecting consumer data transmitted during secure sessions of network communication that includes, among other features, creating a panel of consumers and measuring network activities on the network between computers operated by members of the panel and computers of multiple third party providers of services and information on the network. The measuring of network activities occurs during secure sessions of communication between computers operated by members of the panel and computers operated by providers of services and information. The measuring of network activities occurs at a point on the network between the computers of the members of the panel and a third party provider of network services and information. Furthermore, the point on the network where the measuring of network activities occurs is other than the computers of the panel members and computers of the third party providers.

Applicants respectfully request reconsideration and withdrawal of the rejection because Chelliah and Scroggie, either alone or in combination, fail to describe or suggest one or more of these features. Specifically, Chelliah does not create a panel of consumers and does not measure the secure session network activities of the panel at a point on the network between the

computers of the panel members and a third party provider of services. Rather, Chelliah describes an electronic mall that a user may enter to purchase items from different electronic storefronts. As described above in detail with respect to claim 18, the computer architecture of the electronic mall described in Chelliah enables the electronic storefronts to pick and choose different subsystems to use with their particular electronic storefront. One such subsystem that an electronic storefront operator may choose to use is the observation subsystem. The observation subsystem, only if selected by the storefront operator, may track different consumer events with the electronic storefront. However, Chelliah's observation subsystem is not measuring network activities of a created panel of consumers that occur during secure sessions of communications between the panel members and third party providers of network services.

Scroggie fails to remedy the shortcomings of Chelliah and, notably, is only relied upon in the Office for "registration" as discussed above with respect to claim 18.

Furthermore, Chelliah and Scroggie fail to render claim 33 obvious because a person skilled in the art would find no motivation to combine the references for the reasons previously expressed with respect to claim 18, which are provided again below for convenience. In the Office Action, the Examiner asserts that it would have been obvious to combine Chelliah with Scroggie "because this system provides a means for targeting customers with focused incentive-based promotions that increase profitability and customer satisfaction." See Final Office Action, p. 8. This assertion is unfounded.

First, Chelliah, without modification, describes an incentives subsystem provides a means for targeting customer with focused incentive-based promotions that are designed to increase profitability and customer satisfaction. See Chelliah, col. 6, lines 49-52. For example, some incentives that the electronic storefront may use include in-store couponless price discounts (See Chelliah, col. 20, lines 43-67), coupon-based price discounts (See Chelliah, col. 23, lines 4-12), in-store frequent buyer incentives (See Chelliah, col. 27, lines 60-67), coupon-based frequent buyer points (See Chelliah, col. 28, lines 1-10), and quantity discount incentives (See Chelliah, col. 28, lines 11-17). Accordingly, one skilled in the art would not have been motivated to

modify the teachings of Chelliah to include features already provided by the system of Chelliah without modification.

Second, the system of Chelliah is directed only to electronic commerce, whereas the system of Scroggie is directed to providing incentives that a customer prints out and brings to a store for redemption. Accordingly, one skilled in the art would not have been motivated to modify the electronic commerce system of Chelliah to include a system that is designed for customers to print out coupons to redeem in a physical store, because that would dissuade potential customers from using the electronic mall and electronic storefronts described in Chelliah.

Thus, because there would be no motivation by a person skilled in the art to combine Chelliah and Scroggie, the Office Action fails to establish a *prima facie* 103(a) rejection.

For at least these reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of independent claim 33 and its dependent claims 34-36.

Claim 35

Claim 35, which depends from claim 33, recites that the measuring network activities includes, among other features, negotiating by the server of the provider of services a separate secure session with the computer of the consumer, thus initiating a secure session with the computer of the consumer. The server of the provider of services also negotiate another secure session with the data server to which the data request is being communicated. The provider of services then communicates the data request to the data server and receives the requested data over the secure session negotiated with the data server. At least part of the data from the data server is recorded at the provider of services. The received data is re-addressed for delivery to the consumer's computer using the secure session between the server of the provider of services and the computer of the consumer. Thus, the server of the provider of services securely transfers data to and from the consumer's computer to the data server using two separately negotiated secure sessions, namely one session between the consumer's computer and the server of the provider of services and another session between the server of the provider of services and the

data server. The provider of services also records at least a part of the secured data that fulfills the data requests.

Applicants respectfully request reconsideration and withdrawal of this rejection because, Chelliah and Scroggie, either alone or in combination, fail to describe or suggest one or more of the features recited in claim 35. Chelliah simply does not discuss the notion of using any type of secure session. Moreover, Chelliah does not describe a provider of services that functions to negotiate two separate secure sessions and to record at least part of the secured data that is being communicated from the data server back to the consumer's computer, where the data requests and the data fulfilling the requests are communicated using separately negotiated secure sessions through the provider of services. Scroggie does not remedy these failures of Chelliah and, notably, is only relied upon in the Office Action to show "registration."

For at least these reasons and for the reasons discussed above with respect to claim 33, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 35.

Conclusion

Based on the detailed discussion and detailed reasons provided above, Applicants respectfully request withdrawal of the 103(a) rejection of claims 18-36 and immediate allowance of all of the claims. Should the Examiner maintain the rejection of any one of claims 18-36 in view of the combination of Chelliah and Scroggie, Applicants respectfully request that the Examiner specifically point out by column and line number where each and every limitation recited in claims 18-36 is disclosed in Chelliah and/or Scroggie in order to provide Applicants sufficient clarification and explanation with which to respond. The nine line paragraph that has been maintained in the last two Office Actions is grossly inadequate and unacceptable to the Applicants, who have paid all appropriate government fees and are entitled to a clear explanation of the pertinence of each reference with respect to each rejected claim.

Furthermore, should the Examiner find any new grounds of rejection of any one of claims 18-36, Applicants submit that any new ground of rejection must be made with sufficient detail and with identification of specific portions of any applied reference to enable Applicants to

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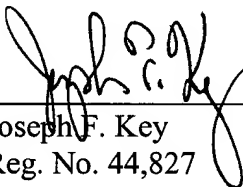
understand how each claimed feature has been met. Moreover, any such ground of rejection should be made non-final because the finality of this Office Action was improper and because any new grounds of rejection were not necessitated by any claim amendments. See MPEP 706.07(a).

All claims are in condition for allowance. Should the Examiner have any questions regarding this application, he is invited to call the undersigned at the telephone number provided below.

No fees are believed to be due at this time. During the pendency of this application, please apply any deficiencies or credits to deposit account 06-1050.

Respectfully submitted,

Date: 05/26/2004



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